IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3310 of 2007()

Crl.R.P.2186/06 OF THIS COURT

PETITIONER: ACCUSED

ARUN S.NAIR, S/O.SIVADASAN NAIR,
CHENNAKUNNEL HOUSE, CHIRAKKADAVU VILLAGE,
PONKUNNAM, KOTTAYAM DISTRICT.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: RESPONDENTS

---

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. BHANUVIKRAMAN PILLAI (DECEASED),
AREEKAL HOUSE, CHERUVALLY P.O.,
KOTTAYAM.

3. LEKHA, D/O.LATE BHANUVIKRAMAN PILLAI
(DECEASED), AREEKAL HOUSE,
CHERUVALLY P.O., KOTTAYAM.

4. LATHIKA,
D/O.LATE BHANUVIKRAMAN PILLAI (DECEASED),
AREEKAL HOUSE, CHERUVALLY P.O.,
KOTTAYAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3310 of 2007

Dated this the 2nd day of November, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The said verdict of guilty, conviction and sentence have now become final with the disposal of the revision filed before this Court. The petitioner faces the sentence of imprisonment till rising of court. There is a further direction to pay compensation and in default to undergo S.I for a period of 2 months.

2. According to the petitioner, he is willing to undergo the sentence of imprisonment till rising of court. But the petitioner asserts that the complainant is no more now. The direction was to pay the amount to the complainant. As the complainant is no more, amounts have been paid and the liability has been discharged by effecting payment to the legal heirs of the deceased/complainant.

3. It is for the petitioner and all the legal heirs of the deceased/complainant to go before the learned Magistrate and satisfy the learned Magistrate that the entire amount due to the complainant has now been paid to his legal heirs and the liability has been discharged. If the learned Magistrate is satisfied that the liability has

been discharged, there can be no question of executing the default sentence against the petitioner. The burden shall definitely be on the petitioner to show that the entire liability has been discharged by making payments to the legal heirs of the deceased/complainant. Reasonable time shall be granted by the learned Magistrate to the petitioner to adduce relevant and necessary materials in support of that assertion. The petitioner shall now appear before the learned Magistrate on 12.11.07.

4. This Crl.M.C is dismissed, but with the above observations.

(R.BASANT, JUDGE)

rtr/-